

**PATENT**

U.S. Appln. Ser. No.: 09/410,484  
Attorney Docket No. NATNUT-03972

**REMARKS**

Claims 1-3, 7, and 9 are pending and under examination in the present application.

The Examiner maintains that claims 1-3, 7, and 9 are unpatentable for allegedly being obvious under the combination of Langer and Udell. (Office Action, *pp.* 2-3). Applicants must respectfully disagree.

A *prima facie* case of obviousness requires the Examiner to cite a combination of references which (a) disclose the elements of the claimed invention, (b) suggests or motivates one of skill in the art to combine those elements to yield the claimed combination, and (c) provides a reasonable expectation of success should the claimed combination be carried out. Failure to establish any one of these three requirements precludes a finding of a *prima facie* case of obviousness, and, without more, entitles Applicant to allowance of the claims in issue.<sup>1</sup> Applicants again submit that the Examiner has failed to make a *prima facie* case of obviousness.

Nonetheless, in view of the Examiner's statement that "Applicants may overcome the rejection if they can claim their treatment independent of weight lost" Applicants have amended claim 1 to recite, in pertinent part, "[a] method treating hypertension in humans, independent of weight, loss comprising . . . ." in order to further their business interests and the prosecution of the present application in a manner consistent with the Patent Business Goals (PBG),<sup>2</sup> and not in acquiescence to the Examiner's arguments and while reserving the right to prosecute the original (or similar) claims in the future. (Office Action, *p.* 3)

Support for this amendment is found throughout the specification as various methods for reducing hypertension in a subject described therein are not tied to the quantity or quality of weight reduction in the subject.

**Conclusion**

It is respectfully submitted that the invention as claimed fully meets all requirements for patentability and that the claims are worthy of allowance. Should the Examiner believe

<sup>1</sup> See, e.g., *Northern Telecom Inc. v. Datapoint Corp.*, 15 USPQ2d 1321, 1323 (Fed. Cir. 1990).

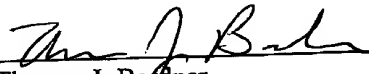
<sup>2</sup> 65 Fed. Reg. 54603 (September 8, 2000).

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that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

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**Appendix 1****In The Claims:**

Please amend claim 1 as follows:

1. (Amended) A method of treating hypertension in humans, independent of weight loss, comprising:
  - a) providing a subject and a composition comprising a safe and effective amount conjugated linoleic acid; and
  - b) administering said conjugated linoleic acid composition to said subject under conditions such that blood pressure of said subjects is reduced.